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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,769	12/12/2001	Udo Beckmann	70280	8697

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MCGLEW & TUTTLE, PC  
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SCARBOROUGH, NY 10510-0827

EXAMINER

NOGUEROLA, ALEXANDER STEPHAN

ART UNIT PAPER NUMBER

1753

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/020,769

Applicant(s)

BECKMANN, UDO

Examiner

ALEX NOGUEROLA

Art Unit

1753

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 30 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 12-17.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1 and 3-6.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See Continuation Sheet

*Alex Noguerola*  
Alex Noguerola  
Primary Examiner  
Art Unit: 1753

Continuation of 10. Other: Applicant has (a) amended claim 1 to include the limitations of previous claim 2 and (b) amended claim 4 to include the limitations of previous claim 7. Applicant asserts that Dietze does not suggest the additional limitations of claims 2 and 7 and that such limitations or incentives for such limitations are not within the general knowledge of a person of ordinary skill in the art. The examiner respectfully disagrees. The sensor of Dietze is intended for use by untrained laboratory staff (col. 1, ll. 18-20). It is programmed for a complex series of preliminary tests and sensor preparation steps (col. 6, ln. 1 - col. 8, ln. 4). The measurement step also clearly programmed: "The clocking of the times at which measurements are made by the current measuring and voltage measuring devices is preferably mutually synchronized. Synchronization with the operation of the electric voltage source should also be possible." (col. 2, ll. 52-57) and "As is usual during the measurement of amperometric sensors with three electrodes, the output voltage of the voltage source 45 is regulated so that the voltage between the reference electrode 14 and the working electrode 13 has a desired target value" (col. 7, ll. 56-60). One with ordinary skill in the art would not have expected a person using Dietze's sensor to manually synchronize and regulate the measurement operating parameters. Assuming arguendo that new claims 1 and 4 are not obvious over Dietze, new claims 1 and 3-6 are still not allowable because previous claims 2, 3, 6, and 7 were rejected as being obvious over Dietze under 35 U.S.C. 103(a) and in a separate set of rejections as being obvious over Dietze in view of Bussmann under 35 U.S.C. 103(a) (section 12 of the Office action of October 25, 2004). Applicant has not commented on the latter set of rejections and thus has not shown that the invention of claims 1 and 3-6 are not obvious over Dietze in view of Bussmann. For these reasons claims 1 and 3-6 would be rejected.